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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204599
Party	Defendant Shamim Akhter, partnership DBA Shamim Akhter
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Date	05/14/2012
Attachments	TN158318OPP- ANSWER TO NOTICE OF OPPOSITIONhn2.pdf (7 pages) (108279 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE
THE TRADEMARK TRIALS AND APPEALS BOARD**

GILDA A. SOLIS and STILLMAN DE
MEXICO S.A. DE C.V.

Opposers,

v.

SHAMIM AKHTER, partnership DBA
Shamim Akhter

Applicant.

Opposition No. 91/204,599

Serial No. 85/092,438

Mark: STILLMAN'S

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trials and Appeals Board
P.O. Box 1451
Alexandria, VA 22313-1451

ANSWER TO NOTICE OF OPPOSITION
AND
AFFIRMATIVE DEFENSES

Shamim Akhter, partnership DBA Shamim Akhter (hereinafter referred to as “Applicant”), is a Pakistan partnership having its principal place of business at 143-East Street No. 18, Phase-I, Defence Housing Authority, Karachi, Pakistan seeks to register its mark STILLMAN (“hereinafter referred to as “Applicant’s Mark”). Applicant as its Answer to the Notice of Opposition mailed by the Trademark Trial and Appeal Board (hereinafter referred to as the “Board”) on April 4, 2012, on behalf of joint Opposers Gilda A. Solis (hereinafter referred to as “Solis”) and Stillman de Mexico S.A. de C.V. (hereinafter referred to as “Stillman de Mexico” and Solis and Stillman de Mexico hereinafter jointly referred to as “Opposers”) in connection with the above opposition

proceeding, hereby responds as follows using the same numbered paragraphs corresponding to the numbered paragraphs of the Notice of Opposition:

1. Applicant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 1 of the Notice of Opposition, and on that basis denies each and every averment contained therein.

2. Applicant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 2 of the Notice of Opposition, and on that basis denies each and every averment contained therein.

3. With respect to the averments in Paragraph 3 of the Notice of Opposition, Applicant admits only that the Stillman Company, Inc., a corporation of DE, owned a registration for the mark STILLMAN'S for Creams Suitable for the Treatment of Freckles in U.S. Class 6 (International Class 3), registration number 0,172,550, since at least as early as 1969 until it was cancelled on or about June 5, 2004. Applicant is without information or knowledge sufficient to form a belief as to the truth of each and every other averment contained in Paragraph 3 of the Notice of Opposition, and on that basis denies each and every other averment contained therein.

4. Applicant is without information or knowledge sufficient to form a belief as to the truth of the averments contained in Paragraph 4 of the Notice of Opposition, and on that basis denies each and every averment contained therein.

5. Applicant admits the averments contained in Paragraph 5 of the Notice of Opposition, except that Applicant's Application was filed on July 26, 2010.

6. Applicant admits the averments contained in Paragraph 6 of the Notice of Opposition.

7. Applicant admits only that the names "Shamin Akhtar" and "The Stillman Company, Inc." appear on a document attached to the Notice of Opposition as Exhibit 1 and entitled, "MANUFACTURING – SALES AGREEMENT – APPOINTMENT OF AGENT (hereinafter referred to as the "Agreement"). Applicant at this time is without knowledge of the authenticity of the Agreement and states that the Agreement speaks for itself. Thus, Applicant objects to the characterization of the Agreement. Applicant is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in Paragraph 7 of the Notice of the Opposition, and on that basis denies each and every one of the remaining averments contained therein.

8. Applicant admits only to the filing of a trademark application in the Patent and Trademark Office on October 12, 2010 and assigned Serial No. 85/150,670, for Stillman's for facial cream in international class 003. Applicant is without information or knowledge sufficient to form a belief as to the truth of the remaining averments contained in Paragraph 8 of the Notice of Opposition, and on that basis denies each and every one of the remaining averments contained therein.

9. Applicant admits to averments contained in Paragraph 9 of the Notice of Opposition.

10. Applicant admits to the averments contained in Paragraph 10 of the Notice of Opposition that Opposer Solis' Application No. 85/150,670, was suspended.

11. Applicant is without information or knowledge of Opposers's alleged common law rights sufficient to form a belief as to the truth thereof, and is without information or knowledge of the remaining averments contained in Paragraph 11 of the Notice of Opposition, and on that basis denies each and every one of the remaining averments contained therein.

12. Applicant is without information or knowledge of Opposers's alleged common law rights sufficient to form a belief as to the truth thereof, and thus is without information or knowledge of the remaining averments contained in Paragraph 12 of the Notice of Opposition, and on that basis denies each and every one of the remaining averments contained therein.

13. Applicant denies that Opposers have any of the rights inferred or alleged in Paragraph 13 of the Notice of Opposition, and on that basis denies each and every one of the averments contained therein.

14. Applicant denies the averments of Paragraph 14 of the Notice of Opposition.

15. Applicant denies that Opposers are entitled to any relief.

Wherefore, SHAMIM AKHTER, partnership DBA Shamim Akhter, having fully and completely responded to the averments contained in the Notice of Opposition, requests that this Opposition be dismissed and that SHAMIM AKHTER, partnership DBA Shamim Akhter's mark STILLMAN'S and Application Serial No. 85/092,438 proceed to registration on the Principal Register.

AFFIRMATIVE DEFENSES

Applicant, as affirmative defenses to the Notice of Opposition, pleads further as follows:

1. The Notice of Opposition does not state a cause of action upon which relief can be given to Solis by the Board.

2. The Notice of Opposition does not set forth a basis giving Opposer Solis standing to file this Opposition.

3. The Notice of Opposition only makes a bold assertion that Opposer Solis is a predecessor-in-interest without setting forth any facts relating thereto so as to give fair notice to Applicant of Solis' reliance thereon.

4. The Notice of Opposition does not state a cause of action upon which relief can be given to Stillman de Mexico by the Board.

5. The Notice of Opposition does not set forth a basis giving Opposer Stillman de Mexico standing to file this Opposition.

6. The Notice of Opposition states only that Opposer Stillman de Mexico uses a trade name of Stillman de Mexico in commerce, and does not state that Opposer Stillman de Mexico uses a mark in the United States, and does not allege that such trade name usage gives it priority.

7. The Agreement mentioned in paragraphs 7 and 14 of the Notice of Opposition is no longer in effect.

8. The Agreement mentioned in paragraphs 7 and 14 of the Opposition is not material to this Opposition, and these paragraphs should be struck.

9. The Notice of Opposition only makes a bold assertion that Opposer Solis has a contractual right under the Agreement without setting forth any facts relating thereto so as to give fair notice to Applicant of Solis' reliance thereon.

Respectfully Submitted,

H & A INTELLECTUAL PROPERTY LAW, PLLC

Dated: May 14, 2012

By: /Harold L. Novick/
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Phase-I, Defence Housing Authority
Karachi
PAKISTAN

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION AND AFFIRMATIVE DEFENSES was served on the Attorney for Opposer on this May 14, 2012 by first-class mail, postage pre-paid to the following address:

EDOUARD V ROSA, ESQ.
LAW OFFICES OF EDOUARD V ROSA
28047 Dorothy Drive, Suite 305
Agoura Hills, CA 91301
UNITED STATES

/Harold L. Novick/
Harold L. Novick